

REMARKS

Initially, Applicants would like to thank the Examiner for indicating the allowability of the subject matter recited in claims 8-14, if rewritten into independent form to include all of the limitations of the base claim and any intervening claims. Applicants would also like to thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. §119, as well as receipt of copies of the certified copies of each of the priority documents (i.e., Japanese Application No. 2003-138099 and Japanese Application No. 2003-031817) upon which Applicants' claim for foreign priority under 35 U.S.C. §119 is based.

In the outstanding Final Official Action, claim 15 was rejected under 35 U.S.C. §112, second paragraph, as indefinite. Claims 2-7, 15-18 and 21-23 were rejected under 35 U.S.C. §102(b) (*incorrectly labeled as a rejection under U.S.C. §101*) over YOON (U.S. Patent No. 6,066,090). Claims 8-14 were objected to as being dependent upon a rejected base claim, but were otherwise indicated as allowable if rewritten into independent form to include all of the limitations of the base claim and any intervening claims.

Initially, Applicants respectfully submit that the finality of the outstanding Final Official Action is improper and premature. In this regard, the Final Official Action indicates, at page 5, that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action... [a]ccordingly, **THIS ACTION IS MADE FINAL**". However, amended claim 2 corresponds to original claim 2, rewritten into independent form. Further, amended claim 4 corresponds to original claim 4, rewritten into independent form.

Accordingly, the amendments to claims 2 and 4 did not necessitate the new ground of rejection. Rather, the new ground of rejection of at least claims 2 and 4 was necessitated because the previous grounds of rejection of at least claims 2 and 4 were shown by Applicants to be incorrect and inappropriate. Accordingly, Applicants respectfully request reconsideration and withdrawal of the finality of the outstanding Final Official Action.

Applicants traverse the objection to claims 8-14. In this regard, upon entry of the present Response, Applicants will have amended claim 8 into independent form to include substantially all of the limitations of base and intervening claims (i.e., claim 4). Accordingly, Applicants submit that claim 8 is allowable at least because this claim was indicated as containing allowable subject matter in the outstanding Final Official Action. Applicants further submit that claims 9-14 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Applicants traverse the rejection of claim 15 under 35 U.S.C. §112, second paragraph. In this regard, upon entry of the present Response, Applicants will have amended claim 15 to ensure that antecedent basis is provided for the "cover member" recited therein.

Applicants note that claims 4, 22 and 23 have also been amended to eliminate informalities. In this regard, Applicants submit that the amendments to eliminate informalities in claims 4, 22 and 23 do not narrow the scope of the claims or present new issues for consideration.

Applicants traverse the rejection of claims 2-7, 15-18 and 21-23 under 35 U.S.C. §102(b) over YOON. Upon entry of the present Response, independent claims 2 and 4 will have been amended. In particular, each of claims 2 and 4 will have been amended to clarify that a "position of said first optical system is fixed in relation to a position of said second optical system within a single inserting tube". Applicants submit that each of independent claims 2 and 4 are allowable at least in view of the herein-contained amendments and remarks.

In contrast to the invention recited in amended claims 2 and 4, YOON discloses an endoscope with a distal end divided into two separate bendable portions 44 and 46 (see FIGs. 3-9). The two separate bendable portions 44 and 46 are "independently manipulable or steerable and thus produces an image from a distinct point of view within the body" (see Abstract). Accordingly, the position of an optical system in the first bendable portion 44 is not fixed in relation to a position of an optical system in the second bendable portion 46. Further, the two separate bendable portions 44 and 46 at the distal end of the inserting portion in YOON are consistently shown and described as being in separate branches or tubes, and not "within a single inserting tube".

Accordingly, the endoscope disclosed in YOON does not have a first optical system and a second optical system as recited in claims 2 and 4. For example, YOON does not have a first and second optical system with a "position of said first optical system... fixed in relation to a position of said second optical system". Further, YOON does not disclose or suggest a first and second optical system "within a single inserting tube". At least because YOON does not disclose or suggest "each and every" feature of amended claims 2 and 4, as would be required for the rejection of these claims to be

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proper under 35 U.S.C. §102, Applicants respectfully request reconsideration and withdrawal of the rejection of these claims under 35 U.S.C. §102.

Accordingly, for at least each and all of the reasons set forth above, Applicants submit that each of independent claims 2 and 4 is allowable over the reference applied in the outstanding Final Official Action. Applicants further submit that each of claims 3, 5-7 and 21-23 is allowable at least for depending, directly or indirectly, from an allowable independent claim 2 or 4, as well as for additional reasons related to their own recitations.

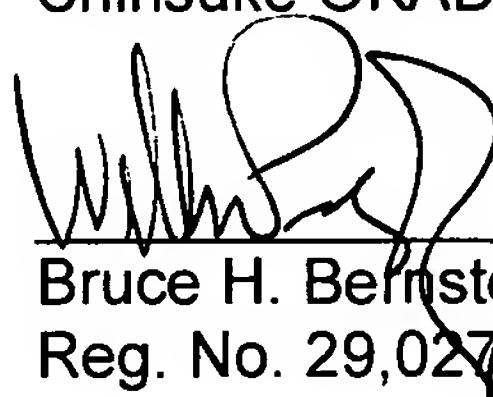
SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application into condition for allowance, and believe that they have now done so. Applicants have discussed the disclosure of the reference relied upon in the outstanding Final Official Action and have pointed out specific features of the claims not disclosed by the reference. Accordingly, Applicants have provided a clear evidentiary basis supporting the patentability of all the claims pending in the present application and respectfully request an indication to such effect, in due course.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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